

Information Regarding Moriarty July 10, 2013, Court Order Modifying TRO

Due to several inaccuracies contained in the August 1 - August 8, 2013 edition of "New Times," a local publication, victims and others interested in the prosecution of Albert Moriarty who read the article were misinformed about the District Attorney's efforts to preserve victim restitution in the Moriarty case. The New Times article has since been updated and changed.

In summary, all of Mr. Moriarty's assets are frozen in order to preserve assets for victim restitution at the conclusion of the case, except six pieces of real property. These six properties were removed from the Order freezing assets because they each had negative equity and were subject to preexisting jurisdiction and Orders of the Federal Bankruptcy Court for disposition. These properties were removed specifically to prevent further costs, expenses and losses to victims and creditors, and to enable compliance with the Federal Court's Orders

The details regarding the July 10, 2013 modification of the Temporary Restraining Order are set forth below.

On July 10, 2013, the Honorable Judge Jacquelyn Duffy signed an Order at the request of the District Attorney's Office modifying the Temporary Restraining Order ("TRO") that was previously issued in the case on May 3, 2013. The TRO freezes Mr. Moriarty's assets in an effort to preserve them for victim restitution at the conclusion of the case, upon the defendant's conviction. The TRO freezing Mr. Moriarty's assets still remains in place. The July 10 Order modified the TRO by removing six pieces of over-encumbered real property from the TRO list. Mr. Moriarty's assets which are still frozen include bank accounts, personal property, and other real property beyond the six parcels which were removed. The six properties which were removed from the TRO on July 10 were all properties which were already under the jurisdiction of the Federal Bankruptcy Court before the filing of the criminal case and the issuance of the original TRO on May 3, 2013.

Additionally, the Federal Bankruptcy Court had issued orders regarding the disposition of these six properties which preexisted the filing of the criminal case and TRO. The subsequent TRO issued in our state court potentially conflicted with the previous order of the Federal Bankruptcy Court.

More importantly, these six properties were determined by the District Attorney's Office and by the Bankruptcy Court to each have negative equity -- meaning that more money was owed to the secured creditor(s) for each property than the property was worth (commonly referred to as "upside-down."). Pursuant to California Penal Code section 186.11, which is the statute that enables the District Attorney's Office to seek a freeze order for the defendant's assets, such secured interests take legal priority ahead of victim restitution when a defendant's property is liquidated pursuant to that statute. In addition, all expenses incurred in the criminal case for preserving and maintaining such properties under the TRO while the criminal case is pending, as well as costs incurred during the sale and liquidation of assets, are paid for first out of the assets for victim restitution. In short, there would be no value left in the properties which could be used for victim restitution, and the cost to maintain and ultimately liquidate the properties would reduce the amount of money available for victim restitution at the

conclusion of the case. The victims here would have suffered further net loss of restitution had the District Attorney's Office not proceeded as it did.

Therefore, in an effort to prevent further losses to victims and creditors, the District Attorney's Office sought to remove these six negative equity properties from the TRO so they would not be a drain on future potential victim restitution, and also so the previous orders of the Federal Bankruptcy Court could be complied with.

Throughout the process to remove these six negative-equity properties from the TRO list, all noticing requirements for the modification of the TRO were followed. Additionally, at this time the vast majority of individuals identified as investors and alleged victims in the Moriarty criminal case are included in the Federal Bankruptcy proceedings, either listed individually or as represented by their attorneys.

The District Attorney's Office also maintains this dedicated webpage with information regarding the criminal case, as well as a telephone hotline number, assigned office staff, and a dedicated e-mail address to which questions and requests for information can be sent, all as means of additional communication about the case.